

GAHC010197302023



THE GAUhati HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5181/2023

DHRUBA JYOTI SAIKIA
S/O- LATE KIRON CH. SAIKIA, R/O- B.P. CHALIHA PATH, P.O., P.S. AND DIST.
SIVASAGAR, ASSAM, PIN- 785640.

VERSUS

UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
DEPARTMENT OF FINANCE.

2:THE PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICE
TAX

GST BHAWAN
KEDAR ROAD
GUWAHATI-781001
ASSAM

3:THE ASSISTANT COMMISSIONER

CENTRAL GOODS AND SERVICE TAX
DIBRUGARH DIVISION
DIBRUGARH.

4:THE SUPERINTENDENT

CENTRAL GOODS AND SERVICE TAX
SIVASAGAR
RANGE-2
DIST. SIVASAGAR
ASSA

For the Petitioner(s) : Mr. R. S. Mishra, Advocate

For the Respondent(s) : Mr. S. C. Keyal, SC, GST

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 08.09.2023

1. The instant writ petition is filed challenging the order bearing No.ZA180223062682M dated 28.02.2023 passed by the Respondent No.4 cancelling the GST Registration of the Petitioner.
2. The facts as could be discerned from a perusal of the writ petition are that the Petitioner herein was granted a registration under the Central Goods and Services Tax Act, 2017 and was issued a certificate of 24.05.2018. However, as stated in the writ petition that on account of acute financial hardship, the Petitioner could not file his return. A Show Cause notice was issued on 15.01.2023 by the Respondent No.4 asking the Petitioner to Show Cause as to why his registration should not be cancelled for not filing the returns under Section 39 of the Central Goods and Services Tax Act, 2017. In the said Show Cause notice, it was also mentioned that the Registration of the Petitioner was suspended w.e.f. 15.01.2023. It is not known as to what Show Cause reply the Petitioner has filed as the said reply to the Show Cause notice is not a part of the records.
3. Be that as it may, on 28.02.2023, the Respondent No.4 cancelled the registration on the ground "Registration is cancelled". It is also seen from the records that the Petitioner claims that he had filed his returns thereafter in terms with Section 39 of the CGST Act, 2017. Thereupon, the instant writ

petition has been filed by the Petitioner challenging the order of cancellation dated 28.02.2023.

4. I have heard the learned counsels for the parties and also perused the materials on record.

5. A perusal of the impugned order dated 28.02.2023 would show that the said order is passed by a quasi judicial authority. The effect of the said order would be that in absence of a registration, the Petitioner cannot carry out his business. Therefore, the effect of the said impugned order would entail civil consequences.

6. In the backdrop of the said, if this Court peruses the order, it is shocking that the Respondent No.4 had cancelled the registration by giving a reason that the "Registration is cancelled". This clearly shows a total non-application of mind apart from the fact that the impugned order is devoid of any justifiable reasons. Accordingly, this Court therefore sets aside the said impugned order dated 28.02.2023 thereby restoring the status back to the date on which the Show Cause notice dated 15.01.2023 was issued.

7. The learned counsel for the Petitioner further submits that in the meantime, the Petitioner had already filed his returns. This aspect of the matter can very well be taken note of by the Respondent No.4 for which liberty is given to the Petitioner to file an additional reply to the said Show Cause notice bringing to the notice of the Respondent No.4 about the filing of the returns as well as any other grounds which the Petitioner deems fit and proper. The said exercise be done within a period of 10 (ten) days from today and thereupon, the Respondent No.4 shall take due steps in accordance with law.

8. Accordingly, the instant writ petition stands disposed of in terms with the

observations and directions made hereinabove.

JUDGE

Comparing Assistant